

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Civil Action No. 5:09-ct-03116-D

AMADO SOSA-DOMINGUEZ, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
THE GEO GROUP, WARDEN G. )  
SNYDER, ASSOCIATE WARDEN D. )  
FARMER, COUNSELOR B. MOORE, )  
AND CHAPLAIN D. BLEVINS, )  
 )  
Defendants. )

**DEFENDANTS' RESPONSE IN  
OPPOSITION TO PLAINTIFF'S MOTION  
FOR APPOINTMENT OF COUNSEL**

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There is no constitutional right to have counsel appointed in a civil case. *Whisenant v. Yaum*, 739 F.2d 160, 163 (4th Cir. 1984). This Court is granted the power to exercise its discretion to appoint counsel for an indigent in a civil action. 28 U.S.C. § 1915(d); *Smith v. Blackledge*, 451 F.2d 1201, 1203 (4th Cir. 1971). However, when exercising its discretion to appoint counsel in a civil action, the appointment “should be allowed only in exceptional cases.” *Cook v. Bounds*, 518 F.2d 779, 780 (4th Cir. 1975). The Fourth Circuit has stated that the existence of exceptional circumstances “will turn on the quality of two basis factors-the type and complexity of the case, and the abilities of the individuals bringing it.” *Brock v. City of Richmond*, 983 F.2d 1055 (4th Cir. 1993) (quoting *Whisenant*, 739 F.2d at 163). In deciding this motion, the Court should consider the Fourth Circuit’s finding that a person who has a legitimate civil claim for damages “will likely find private counsel available on a contingent fee basis.” *Williams v. Leeke*, 584 F.2d 1336, 1339 (4th Cir.1978), *cert. denied*, 442 U.S. 911 (1979).

In this matter the requisite “exceptional circumstances” do not exist and therefore, Sosa-Dominguez is not entitled to be appointed counsel. Sosa-Dominguez alleges in his original complaint, while he was incarcerated at Rivers Correctional Institution in Winton, North Carolina, violations by Defendants of the Religious Freedom Restoration Act, the Religious Land Use and Institutionalized Persons Act, and breach of contract. Thus, this case does not give rise to the exceptional circumstances that would require the appointment of counsel.

Additionally, the circumstances facing Sosa-Dominguez are no different from the circumstances faced by the vast majority of *pro se* prisoners seeking relief in the federal court system. Sosa-Dominguez has adequately represented himself in this matter. Therefore, the characteristics of the litigant do not indicate that this case is appropriate for the appointment of counsel.

In addition, Sosa-Dominguez previously filed a motion for appointment of counsel on October 8, 2009, which the Court denied in its Order dated March 1, 2010. The Court concluded that Sosa-Dominguez presented his claims proficiently and that he failed to establish the exceptional circumstances necessary to support his request.

### **CONCLUSION**

As the character of the claims and litigant in this matter do not rise to the level of “exceptional circumstances,” the Court should deny Plaintiff’s Motion for Appointment of Counsel.

This the 10th day of May, 2010.

**WOMBLE CARLYLE SANDRIDGE & RICE**  
*A Professional Limited Liability Company*

By: /s/Robert T. Numbers, II

JAMES R. MORGAN, JR.

(N.C. State Bar No. 12496)

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**CERTIFICATE OF SERVICE**

This is to certify that on May 10 2010, a copy of the foregoing was filed electronically with the Clerk of Court using CM/ECF system.

It is further certified that on May 10, 2010, that a copy was served upon the following non-CM/ECF participant by placing said copy in a postage paid envelope and addressed to the person(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last known address(es), and by depositing said envelope and its contents in the United States Mail at Winston-Salem, North Carolina.

**ADDRESSEE:**

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*Pro Se Plaintiff*

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